



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
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[www.morgantownwv.gov](http://www.morgantownwv.gov)

July 18, 2013

Tru Art Restaurant Group, LLC  
c/o Mark Tasker  
25 Hannah Lane  
Morgantown, WV 26501

**RE: CU13-12 / Tru Art Restaurant Group, LLC / 40 Donley Street  
Tax Map 28, Parcel 134**

Dear Mr. Tasker:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for "Restaurant, Private Club" use at 40 Donley Street. The decision is as follows:

**Board of Zoning Appeals, July 17, 2013:**

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved Case No. CU13-12 as requested with the following conditions:
  - A. That the petitioner must maintain compliance with all supplemental regulations set forth in Article 1331.06 (27) of the Planning and Zoning Code.
  - B. That the petitioner must obtain permitting as a "restaurant" from the Monongalia County Health Department under the *Monongalia County Clean Indoor Air Regulations*.
  - C. That the "Restaurant, Private Club" use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design or proposed dining experience must first be approved by the Board of Zoning Appeals.
  - D. To ensure that the petitioner's business description and plans are executed as described and considered in granting the one-year "bona fide restaurant" waiver, the subject "Restaurant, Private Club" use must:
    - a) Be open to the general public a minimum of 11:00 AM to 1:00 PM Monday through Friday for the purpose of serving lunch as generally described in the menu submitted with the petitioner's conditional use application.

- b) That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a "Restaurant, Private Club" use to ensure compliance with Article 1331.06(27)(e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.
- E. That any exterior building modifications (i.e. façade, awning, etc.) shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.
- F. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.
- G. That the beneficiary of this conditional use approval is Tru Art Restaurant Group, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

The approval of this conditional use is set to expire in twelve (12) months unless you can demonstrate that it has been acted upon as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the applicant.

Please note that requisite building permits and sign permits must be obtained prior to the commencement of any work.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and approval needs.

Respectfully,

A handwritten signature in black ink, appearing to read "Stacy Hollar". The signature is fluid and cursive, with the first name "Stacy" being more prominent than the last name "Hollar".

Stacy Hollar  
Executive Secretary  
Development Services Department  
shollar@cityofmorgantown.org

**ADDENDUM A – Approved Findings of Fact**  
**CU13-12 / Tru Art Restaurant Group, LLC / 40 Donley Street**

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**Finding of Fact No. 1** – Congestion in the streets is not increased, in that:

The subject conditional “Restaurant, Private Club” establishment employees and guests will have a public and private parking garage to park within easy walking distance and therefore not contribute to parking congestion along neighboring public street.

**Finding of Fact No. 2** – Safety from fire, panic, and other danger is not jeopardized, in that:

The establishment and building will be required to meet all related life safety and fire code provisions.

**Finding of Fact No. 3** – Provision of adequate light and air is not disturbed, in that:

The subject structure already exists and should therefore not affect present light distribution and air flow patterns.

**Finding of Fact No. 4** – Overcrowding of land does not result, in that:

No expansion of the existing building is proposed that would increase its building footprint or building height.

**Finding of Fact No. 5** – Undue congestion of population is not created, in that:

Maximum occupancy will be regulated by related building and fire code provisions.

**Finding of Fact No. 6** – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and appears to have been built to meet these standards.

**Finding of Fact No. 7** – Value of buildings will be conserved, in that:

The subject conditional “Restaurant, Private Club” establishment will be located in an existing structure constructed through a riverfront revitalization public-private partnership intended to contribute specifically to the eatery and hospitality offerings within the Wharf District.

**Finding of Fact No. 8** – The most appropriate use of land is encouraged, in that:

The space is an ideal setting for a restaurant because of the buildings award winning design and beautiful setting overlooking the Monongahela River.